

EXHIBIT 55

1 (Brief pause.)

2 THE COURT: Okay.

3 MR. HARTMANN: Microsoft calls Mr. Pei Wei to the
4 stand, please.

5 THE COURT: Would you please face me and raise your
6 right hand.

7 (Witness sworn.)

8 THE COURT: Please be seated.

9 PEI-YUAN WEI, DEFENDANT'S WITNESS, DULY SWORN

10 VOIR DIRE EXAMINATION

11 BY MR. HARTMANN:

12 Q. Mr. Wei, I put a folder in front of you of exhibits that
13 we might refer to from time to time, so help yourself whenever
14 you need it.

15 Would you, first of all, give us your full name
16 please.

17 A. My name is Pei-Yuan Wei.

18 Q. Could you speak up just a little so we can hear you?

19 THE COURT: You can move closer to the mike, just
20 don't move too close.

21 THE WITNESS: Pei-Yuan Wei.

22 BY MR. HARTMANN:

23 Q. Are you the author of the Viola WWW browser?

24 A. Yes.

25 Q. What have you done to prepare yourself for your testimony

1 in this case today?

2 A. Well, I have gone back and studied more of the materials,
3 the e-mails, the code, just trying to learn more about my old
4 stuff from ten years ago.

5 Q. When did you do that?

6 A. Last week or so.

7 Q. How much time do you think you've spent preparing
8 yourself to testify here today during the last week or so?

9 A. A week.

10 Q. Okay. You gave a deposition in this case a few years
11 ago. Do you recall that, Mr. Wei?

12 A. Yes.

13 Q. And at that time you worked for Sun; is that correct?

14 A. I was retained by a law firm hired by Sun, yes.

15 Q. Hired by Sun. And you were represented at the time of
16 your deposition by lawyers that also represented Sun?

17 A. That's correct.

18 Q. Okay. Now, are there a number of exhibits that relate to
19 your Viola browser, Mr. Wei, of which were you not aware at
20 the time of your deposition?

21 A. Yes.

22 Q. And do these exhibits include documents that relate to
23 the alpha release of your Viola browser?

24 A. Yes.

25 Q. And would you turn to Exhibit 64, for example, in your

1 A. I believe so. Yes.

2 Q. All right. Please tell us briefly how you came to
3 develop the Viola browser.

4 And by the Viola browser, when I use that term, I
5 mean to say the browser that you wrote that supported embedded
6 interactive applications.

7 A. Well, essentially by the end of 1992 I had already
8 developed a browser, and then I went to work for O'Reilly
9 Associates. During that period I was explained various more
10 advanced features, and that's when I included this interactive
11 embedded capability into that version of browser.

12 Q. When do you recall you had the idea of making a browser
13 that was capable of handling embedded objects?

14 A. The idea actually came about day one that I discovered
15 the World Wide Web.

16 Q. Do you recall what the first document was that reflected
17 your idea about embedding program objects into a browser or
18 support for that feature?

19 A. Yes.

20 Q. Would you take a look at Exhibit 15, Defendant's Exhibit
21 15.

22 A. Okay.

23 Q. Do you have it? Is that a document that contains a
24 communication by you that includes the concept of a browser
25 that was able to support embedded interactive objects?

1 A. That's correct.

2 Q. And could you identify that document for us, please?

3 A. It's an e-mail from me to essentially Tim Berners-Lee.

4 It's also copied to the World Wide Web Talk.

5 Q. Okay. And are you the author of that e-mail?

6 A. Yes.

7 Q. And did you send it to Mr. Berners-Lee on or about the
8 date it bears?

9 A. Yes.

10 Q. You did that when you were at -- were you a student at
11 the time?

12 A. No.

13 Q. Where were you working at the time, if at all?

14 A. On my own time. I was hanging out.

15 Q. Okay. Now, at the time you were working on the initial
16 version of the Viola browser; is that correct?

17 A. That's correct.

18 Q. Okay. And was it your practice at the time to
19 communicate with other people in the browser development
20 community regarding your Viola browser?

21 A. Yes. Everyone who were developing process were
22 communicating on this World Wide Web Talk.

23 MR. HARTMANN: I want to move for admission of DTX
24 15 at that point, Judge.

25 THE COURT: You don't have to move at all now,

1 because it's an offer of proof.

2 BY MR. HARTMANN:

3 Q. All right. Now, would you look at DTX 15, please, and
4 point out for us briefly where the idea of a browser that
5 supported embedded interactive objects appears.

6 A. Right. Last sentence. "What I'd like to do soon, if I
7 have the time, is to teach the parser about Viola object
8 descriptions and basically embed Viola objects," and it says:
9 "GUIs and programmability into HTML files."

10 Q. Did you ever get around to implementing that idea in
11 code?

12 A. Yes.

13 Q. And can you tell us approximately when that was?

14 A. Well, the record would suggest that the first
15 implementation at least existed in November of 1992.

16 Q. Okay. At the time you implemented that in code, whom
17 were you working for?

18 A. O'Reilly and Associates.

19 Q. What is O'Reilly's business?

20 A. They are a publisher of computer books, manuals.

21 Q. And how was it that you were working for O'Reilly when
22 you were also working on a browser?

23 A. It was essentially my job to produce a browser that they
24 could use to publish books. That was the idea.

25 Q. Okay. Was anyone else involved at O'Reilly in connection

1 with the work on your browser?

2 A. Well, it was my manager, Dale Dougherty, and eventually
3 there were two other people who were my coworkers working on
4 Viola.

5 Q. Okay. And who were they?

6 A. Scott Silvey and John Blow.

7 Q. And what did Mr. Silvey contribute, if anything at all,
8 to the development of your browser?

9 A. Yes. Code-wise, he wrote a graphical front end using --
10 he wrote a graphical front end for the browser, and also he
11 wrote the external application.

12 Q. Okay. What if anything did Mr. Dougherty -- what if
13 anything was Mr. Dougherty's involvement regarding your
14 browser?

15 A. Well, I -- he was my direct report, and we discussed
16 ideas all the time and brings people over and -- you know.

17 Q. Was he aware of your day-to-day activities?

18 A. Yes.

19 Q. And did he attend demonstrations with you of your
20 browser?

21 A. Yes.

22 Q. Okay. Did you also communicate the nature of your
23 activities to -- on the Viola browser to persons outside of
24 O'Reilly and Associates?

25 A. Yes.

1 Q. And let me point you to Exhibit 24 in your exhibit
2 notebook, Mr. Wei. Would you take a look at that, please.

3 A. Okay.

4 Q. And tell me whether that is a communication you had with
5 Mr. Andreesen regarding your concept of a browser that was
6 capable of handling embedded interactive objects.

7 A. That's correct. This is one of them.

8 Q. Okay. Would you point out where in that document you
9 refer to that idea?

10 A. Well, this is him responding to me, and I was telling him
11 that Viola could embed maps and viewer objects documents into
12 the document page.

13 And then I think there is more. On the second page
14 -- should I go on?

15 Q. Yes, go ahead. I just want you to point out briefly to
16 the Court where the references are to the browser that had the
17 capability of handling interactive objects.

18 A. Right. It says: "A significant new capability is to
19 embed any Viola objects inside a document."

20 Q. What reaction did you receive from Mr. Andreesen?

21 A. He says: "Now this, this is powerful stuff. I can't
22 wait to see how it's realized. People here will go nuts."

23 Q. All right. Did there come a time then that you had code
24 written for your Viola browser so that that browser could
25 indeed handle embedded automatically-launched interactive

1 Q. Okay. The object that the tag information points to, does
2 it contain the location of an executable application?

3 A. Yes, it does.

4 Q. And does it also contain the identity of a data file?

5 A. Yes, it does.

6 Q. Okay. Upon parsing of the VOBJS file, is an executable
7 application launched then to display the data?

8 A. That's correct.

9 Q. And is that done automatically, or does one have to click
10 on the executable application?

11 A. It's done automatically. When the page comes up, all of
12 these function in display happens automatically all at once.

13 Q. Okay. Let's go back now to Exhibit 37 that I showed you
14 and that we spoke of a minute ago. Can you tell me whether
15 that code has any relationship to any code that you provided to
16 a company called Sun Microsystems in 1993?

17 A. Yes, I believe so. Yes, it's basically the code that I
18 gave Sun Microsystems on the 31st, and this archive is dated
19 the 27th and has the same name as the evidence -- as my e-mail
20 suggests, you know, when I sent it to Sun saying: Here's the
21 software, come get it.

22 Q. Okay. How did you come to give the code to Sun
23 Microsystems?

24 A. Well, my boss, Dale Dougherty, sent me an e-mail saying
25 that he's going to bring over some engineers from Sun to show a

1 demonstration -- well, to see what we were doing, and he says
2 show the guys how it works and so forth.

3 Q. And then did there come a time that you wanted to give them
4 a copy of the code that you had, the browser, the Viola browser
5 code?

6 A. That's right. That happened on May 31st, 1993.

7 Q. Okay. What exactly did you do to provide a copy to Sun, a
8 copy of your Viola browser code?

9 A. Right. I put a copy of the code on an FTP, on an Internet
10 Web site called -- an Internet site, and then I sent an e-mail
11 to the engineers telling them where it is so that they can
12 download it.

13 Q. All right. If you would look, please, at Exhibit 41,
14 Defendant's Trial Exhibit 41, that should be in your book, and
15 is that an e-mail that you sent to Mr. Kempf?

16 A. That's correct.

17 Q. And can you tell what is it you're telling him?

18 A. I'm telling James, the engineer from Sun, where or which
19 machine on the Internet to go to, and that would be
20 xcf.berkeley.edu, and in what directory and what file name it
21 is. So I'm telling him where to go get the software.

22 Q. All right. Now, you have a strange name, I think, for your
23 file. It's called what, violatogo.tar.z? Can you just briefly
24 explain why it's called that?

25 A. I guess I just -- well, actually I just said it's Viola